

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 72 - HB 61

February 14, 2015

SUMMARY OF BILL: Prohibits the state from operating any American Health Benefit Exchange or any other health insurance exchange in the state under the Patient Protection and Affordable Care Act (PPACA). Prohibits the state's annual appropriations act from providing, or being construed to constitute, the legislative authorization required for any health insurance exchange. Application of the proposed legislation is dependent on the United States Supreme Court ruling in *King v. Burwell* (Docket No. 14-114) that the Internal Revenue Service (IRS) may not promulgate regulations to extend tax credit subsidies to coverage purchased through exchanges established by the federal government under Section 1321 of the PPACA, as amended.

ESTIMATED FISCAL IMPACT:

NOT SIGNIFICANT

Assumptions:

- Currently, the State of Tennessee does not operate a State Health Insurance Exchange under the PPACA; therefore, there is no impact to the current oversight or regulatory activities or workload of the Department of Commerce and Insurance.
- It is unknown if the state would decide to operate a State Health Insurance Exchange or when such exchange would be operable based solely on the decision of the U.S. Supreme Court; therefore, any future fiscal impact is indeterminable.

IMPACT TO COMMERCE:

Other Impact – Due to a number of unknown factors, the impact to commerce as a result of the proposed legislation cannot reasonable be determined.

Assumptions:

- Based on information provided by the Department of Commerce and Insurance, if the Supreme Court rules that the IRS may not extend tax credit subsidies to coverage purchased through the Federal Health Insurance Exchanges, then the insurance

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purchasers through the exchange will not have access to federal subsidies, but will still be required to obtain insurance in order to avoid a tax penalty and employers would still have to offer health insurance.

- The state would then be prohibited from operating a Health Benefit Exchange that would allow access to those who are eligible to receive federal subsidies when purchasing insurance.
- Without the premium subsidies, the number of individuals purchasing insurance could decline due to the unaffordability of the available plans versus the cost of the federal penalty for not having insurance. If individuals choose not to purchase health insurance, then there would be a negative fiscal impact to health insurance companies in the state.
- Depending on the health status of the individuals who are no longer covered by health insurance, there could be an increase in premium rates if healthy individuals decline purchasing insurance and the membership of the plans is unhealthier. How insurance companies decide to accommodate for the loss of revenue and the health status of their membership will be a business decision that cannot be quantified.
- Due to a number of unknown factors, including how the U.S. Supreme Court will rule in *King v. Burwell* (Docket No. 14-114); if the state would decide to operate a Health Benefit Exchange in absence of the bill; the number of individuals who would decide to pay the federal penalty instead of purchasing health insurance without the federal subsidy; the health status of those who do not purchase health insurance; and the decisions that health insurance companies in the state would make to accommodate for the possible changes to their membership, the impact to commerce is indeterminable.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Jeffrey L. Spalding, Executive Director

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